

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Omni Broadcasting LLC)	File No. EB-FIELDSCR-18-00025989
Licensee of Radio Station W246BN)	
Facility ID # 146143)	
)	
Atmore, AL)	
)	

NOTICE OF VIOLATION

Released: February 8, 2018

By the Regional Director, Region Two, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Omni Broadcasting LLC (Omni), licensee of radio station translator W246BN in Atmore, Alabama. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Federal Communications Commission’s Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On January 12, 2018, in response to a complaint, an agent of the Enforcement Bureau’s Atlanta Office investigated and observed the following violation:

- a. 47 C.F.R. § 1.903(a): “Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission...”³ Omni’s license for station W246BN (Station) authorizes it to operate from coordinates 30° 54' 08.7" N and 87° 28' 32.9" W. Omni’s counsel stated that the Station filed an application for a construction permit to operate from coordinates 30° 25' 59.9" N and 87° 13' 08.7" W, but Commission’s records indicate no authorization for the location from which the

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

³ The term “Wireless Radio Services” is defined as including all radio services authorized under Part 74 of the Rules, thus encompassing the Station, which is an FM translator authorized under Part 74, Subpart L of the Rules. 47 CFR § 1.907.

Federal Communications Commission

station is operating has been issued. The Station is operating from a location that is approximately 40 miles from the location authorized on the Station's license.

3. In addition to the above named violation, a complaint filed with the FCC indicated that this station was originating programming content instead of retransmitting programming from its associated full power station. Therefore, as part of the response to this Notice, the licensee shall indicate the percentage of programming it originates, the percentage of programming that it retransmits and the means by which such programming is received.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁴ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Omni must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁵

5. In accordance with Section 1.16 of the Rules, we direct Omni to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Omni with personal knowledge of the representations provided in Omni response, verifying the truth and accuracy of the information therein,⁶ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁷

6. All replies and documentation sent in response to this Notice should be marked with the File No. specified above, and mailed to the following address:

⁴ 47 U.S.C. § 308(b).

⁵ 47 CFR § 1.89(c).

⁶ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 CFR § 1.16.

⁷ 18 U.S.C. § 1001 *et seq.* See also 47 CFR § 1.17.

Federal Communications Commission

Federal Communications Commission
Office of the Director - Region Two
P.O. Box 1493
Powder Springs, GA 30127

7. This Notice shall be sent to Omni at its address of record and to its counsel, John Trent, at Putbresi Hunsaker & Trent PC, 200 South Church Street, Woodstock, Virginia 22664.

8. The Privacy Act of 1974⁸ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Ronald Ramage
Director - Region Two
Enforcement Bureau

⁸ P.L. 93-579, 5 U.S.C. § 552a(e)(3).